

## REVENUE DEPARTMENT[701]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 12, “Filing Returns, Payment of Tax, Penalty and Interest,” Iowa Administrative Code.

Iowa Code section 15.331A provides for a sales and use tax refund for eligible businesses approved by the Iowa Economic Development Authority under the High Quality Jobs Program, Enterprise Zone (EZ) Program, or Housing Enterprise Zone Program. This amendment makes changes to 701—Chapter 12 by adding new rule 701—12.19(15) to provide clarification on how eligible businesses can claim this sales and use tax refund.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 8, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 25, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 25, 2012.

After analysis and review of this rule making, no adverse impact on jobs has been found. The sales and use tax refund may positively impact job and economic growth for businesses in the state of Iowa.

This amendment is intended to implement Iowa Code section 15.331A.

The following amendment is proposed.

Adopt the following new rule 701—12.19(15):

**701—12.19(15) Sales and use tax refund for eligible businesses.** For eligible businesses approved under the high quality jobs program, enterprise zone program, or housing enterprise zone program by the Iowa economic development authority, a refund of sales and use tax is available.

**12.19(1) Sales and use tax eligible for refund.** The sales and use tax for which the eligible business can receive a refund consists of the following:

*a.* Sales and use tax paid for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and

used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business.

*b.* If the eligible business is involved in a warehouse or a distribution center, sales and use tax attributable to racks, shelving and conveyor equipment.

**12.19(2) Sales and use tax ineligible for refund.** The sales and use tax for which the eligible business cannot receive a refund consists of the following:

*a.* Any local option sales tax paid is not eligible for the refund. The refund is limited to the state sales and use tax paid.

*b.* Any sales and use tax attributable to intangible property and furniture and fixtures is not eligible for the refund.

**12.19(3) Claiming the refund.** To receive the refund, the eligible business must file a claim for refund within one year of project completion. For a manufacturing facility, project completion is the first date upon which the average annualized production of finished project for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility. For all other facilities, project completion is the date of completion of all improvements necessary for the start-up, location, expansion or modernization of the business.

*a.* To request a refund of the sales and use tax paid for gas, electric, water or sewer utility services used during construction, the eligible business must file Form IA 843, Claim for Refund, with the department of revenue. The claim shall include the agreement number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount.

*b.* To request a refund of the sales and use tax paid on goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor relating to the construction or equipping of a facility, the eligible business must file the Construction Contract Claim for Refund form, along with the Iowa Contractor's Statement, with the department of revenue. It is not necessary to attach invoices to the Construction Contract Claim for Refund form.

*c.* To request a refund of the sales and use tax attributable to racks, shelving and conveyor equipment, the eligible business must file Form IA 843, Claim for Refund, with the department of revenue. The claim shall include the agreement number given by the Iowa economic development authority, along with copies of invoices or a schedule to support the refund amount. The combined amount of refunds attributable to sales and use tax paid on racks, shelving and conveyor equipment, along with tax credit certificates issued for sales and use tax paid on racks, shelving and conveyor equipment provided in 701—subrule 52.10(5), shall not exceed \$500,000 during a fiscal year. The requests for refunds or tax credit certificates will be processed in the order the requests are received on a first-come, first-served basis until the amount of refunds or credits authorized for issuance has been exhausted. If applications for refunds or tax credit certificates exceed the \$500,000 limitation for any fiscal year, the applications shall be considered in succeeding fiscal years.